

STATE OF NEW HAMPSHIRE

PROBATE COURT

PROCEDURE BULLETIN 15

RELATIVE TO: Revocation of Will or Trust by Divorce or Annulment; RSA 551:13, II and III

This procedure bulletin is prepared for informational purposes in processing case files. It is not intended to provide parties with legal advice.

RSA 551:13, II addresses the effect a subsequent divorce or annulment has on the testator's will. Similarly, RSA 551:13, III addresses the effect a subsequent divorce or annulment has on certain trust instruments.

Wills or trusts executed prior to and during a marriage are equally affected by this law. The fiduciary for an estate or trustee will notify the court when the decedent's will or grantor's trust includes provisions in favor of a former spouse, and the fiduciary will provide to the court with a copy of the certificate of divorce or annulment. If the fiduciary is unable to obtain a copy of the certificate, the court may accept an affidavit that explains the certificate's unavailability and declares the date of the divorce or annulment.

The former spouse and all heirs in the descending line of such spouse, who are not also heirs at law of the decedent or grantor, are not beneficially interested parties as defined in RSA 550:12. The fiduciary of the estate or trustee will be liable for any improper distributions made as a result of his/her failure to inform the court of a divorce or annulment implicated by this law.

Last Reviewed: August 1, 2007

_____/s/ David D. King
David D. King
Administrative Judge of Probate Court

History:

Revised August 1, 2007

Effective August 1, 2001

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